

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

)
)
Albert Lee, Jr.,) Case No.: 1:10-cv-151
)
Plaintiff,) Judge Wells
vs.) Magistrate Judge Perelman
Lee Lucas, et al,) **Answer of Defendant Charles Metcalf**
Defendants) **with Jury Demand Endorsed Hereon**
)

Now comes the defendant, Charles Metcalf, by and through counsel,
and for his Answer to the Complaint states the following:

First Defense

1. The defendant admits that he is employed as a Deputy with the Richland County Sheriff's Office. The defendant further admits that he pled guilty to one count of Deprivation of Rights Under Color of Law in the matter of *US v. Charles Metcalf*, Case No. 1:09-cr-206 in the United States District Court for the Northern District of Ohio. The defendant further admits that Lee Lucas was under indictment but was acquitted. The defendant denies each and every remaining allegation contained in paragraphs 9, 21 and 22 of the Complaint.

2. The Defendant denies the allegations contained in paragraphs 1, 3, 4, 5, 6, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36/

3. The defendant is without knowledge sufficient to form a belief as to the truth of the allegations contained in paragraphs 2, 7, 8, 10 and 11.

4. The Defendant further denies each and every remaining allegation of the Complaint not specifically admitted herein.

Second Defense

5. The Complaint fails to state a claim for which relief can be granted.

Third Defense

6. The injuries and damages complained of are the direct and proximate result of the intervening or superseding acts of third parties other than this defendant or of other individuals or entities over whom this defendant had no control or right of control.

Fourth Defense

7. The claims of the plaintiff are barred by applicable doctrines of immunity and privilege including statutory, absolute and qualified immunity as well as immunity from punitive damages. This includes, but is not limited to, immunity under section 2744

of the Ohio Revised Code which sets forth Ohio's Political Subdivision Tort Immunity Statute.

Fifth Defense

8. At all times relevant to this suit, the defendant acted reasonably and in good faith without malice and in accordance with the law.

Sixth Defense

9. The plaintiff is not the real party in interest.

Seventh Defense

10. The plaintiff has failed to mitigate damages.

Eighth Defense

11. The plaintiff has failed to join all necessary and indispensable parties.

Ninth Defense

12. The plaintiff has failed to plead with particularity.

Tenth Defense

13. The plaintiff has not properly served the defendant and/or process or service of process is deficient.

Eleventh Defense

14. Any injuries complained of were the result of a lack of due diligence by the plaintiff.

Twelfth Defense

15. The plaintiff's claims may be barred in whole or in part by the doctrine of unclean hands.

Thirteenth Defense

16. The plaintiff's claims are barred by the applicable statute of limitations.

Fourteenth Defense

17. The Plaintiff's claims are barred by the doctrines of waiver and estoppel.

Fifteenth Defense

18. The Plaintiff's claims are barred because the Plaintiff has failed to identify a clearly established Constitutional right.

Sixteenth Defense

19. There is no causal relationship between any conduct of the defendant and any damages suffered by the Plaintiff.

Seventeenth Defense

20. The plaintiff's claims are barred by the doctrines of res judicata and/or collateral estoppel.

Eighteenth Defense

21. The plaintiff lacks standing.

Nineteenth Defense

22. The court lacks personal jurisdiction over this defendant.

Twentieth Defense

23. The defendant reserves the right to assert additional defenses that become known during the course of this litigation.

WHEREFORE, the Defendant, Charles Metcalf, prays for judgment from this court in his favor and against the Plaintiff, dismissing the Complaint against him with prejudice and awarding to the Defendant his costs, fees and expenses herein, together with such other relief as may be equitable and just.

Respectfully submitted,

/s/ Michael M. Heimlich

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JURY DEMAND

The Defendants demand trial by jury.

/s/ Michael M. Heimlich
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CERTIFICATE OF SERVICE

A copy of the forgoing was served upon counsel this 22nd day of March, 2010 through the court's electronic filing system.

/s/ Michael M. Heimlich
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